REMARKS/ARGUMENT

Clarification of the status of the priority document is respectfully requested for the reasons set forth in the second paragraph on page 3 of the Amendment filed January 28, 2002.

While applicants disagree with the rejection of the claims under 35 U.S.C. 102 over Kadota, claim 1 has been amended to specify that the upper electrode includes at least aluminum in order to expedite allowance of this application. As pointed out in the most recent Office Action, Kadota teaches a two layer electrode of gold over chromium. There is neither a teaching or suggestion of a electrode layer including aluminum. Accordingly, it is respectfully submitted that this amendment eliminates the basis for the rejection.

It is further to be noted that claim 2 specifies that the lower electrode contains at least one of silicon, molybdenum, tungsten, boron, carbon, sulfur and titanium. There is no teaching or suggestion of this feature in Kadota.

The current Office Action "notes" that a report by the Japanese Patent Office cites patents which anticipates the claimed device. Nevertheless, no rejection is made in this application based on any of those patents. Applicant respectfully submits that it is not fair to place a cloud on the patent to issue from this case by such a comment. For the record, applicant traverses any assertion that the patents cited by the Japanese Patent Office either anticipates or renders the claimed device obvious. If the Examiner disagrees, the issuance of a further Office Action applying those references is respectfully requested.

It is respectfully submitted that this application is now in condition to be allowed at the earliest issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

Edward A. Meilman
Registration No.: 24,735
DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 835-1400

EAM:hg

APPENDIX A
Version With Markings To Show Changes Made
37 C.F.R. § 1.121(b)(1)(iii) AND (c)(1)(ii)

CLAIMS:

1. An electric device comprising:

a substrate;

a lower electrode layer on the substrate and comprising a material capable of reactive-ion etching with a fluorine-based gas; and

an upper electrode layer on the lower electrode layer and comprising a material capable of reactive-ion etching with a chlorine-based gas, wherein said upper electrode comprises Al.